## Remarks

In the present response, claims 1-6 and 8-11 are presented for examination.

### Claim Rejections: 35 USC § 103(a)

Claims 1, 3-6, and 8-10 are rejected under 35 USC § 103(a) as being unpatentable over US publication number 2003/0005130 (Cheng) in view of USPN 7,158,938 (Labbe). These rejections are traversed.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art cited must teach or suggest all the claim limitations. *See* M.P.E.P. § 2143. For at least the following reasons, Applicants assert that the rejections do not satisfy these criteria.

<u>All Elements Not Taught or Suggested</u>

All of the elements of the claims are not taught or suggested in Cheng and Labbe. By way of example, independent claim 1 recites reserving a reservation time period of a device for a host upon receiving a command from the host. The claim then recites that the reservation time period is "based on a command type of the device command." The Office Action <u>admits</u> that Cheng does not teach a "reservation time period being determined based on a command type of the device command" (see OA mailed 03/30/07 at p. 3). Applicants agree with this admission. The Office Action, however, attempts to cure this deficiency with Labbe. Applicants respectfully disagree.

In Labbe, a user at a workstation is provided with time slots for reserving a copier, printer, or facsimile machine (see Labbe at col. 3, lines 11-16; and col. 6, lines 10-20). The user selects a number of open time slots based on how much time is needed to complete the copy, print, or fax job (see Labbe at col. 6, lines 26-29). Labbe also states that the system may automatically determine how many time slots to reserve for each copy, print, or fax job (see Labbe at col. 6, lines 26-29).

Nowhere does Labbe teach or even suggest that the reservation time is based on a "command type." Instead, Labbe teaches that the reservation time is based on a number of time slots that a user selects to complete the copy, print, or fax job. Labbe does not even mention "device commands" or "command types" as these terms are known to those skilled in the art. Again, Labbe is not concerned with device commands or command types whatsoever.

For at least these reasons, independent claim 1 and its dependent claims are allowable over Cheng in view of Labbe.

No Suggestion/Motivation to Combine References

For at least the following reasons, no suggestion or motivation exists to modify or combine Cheng in view of Labbe.

Applicants respectfully submit that no teaching or suggestion exists to make the combination because the references are directed to completely different inventions. Cheng (in US classification 709/228) is directed to systems and methods that transfer audio-video information via a Universal Plug and Play (UPnP) network. Fig. 1 in Cheng shows a block diagram of a system 100 having UPnP enabling logic 120 in a host system 110 that interacts with controlled or slave devices 171, 181. Fig. 4 shows a diagram showing how a reservation process works when a manager attempts to reserve a resource. **By contrast, Labbe teaches a completely different and unrelated invention.** Labbe (in US classification 705/5) is directed to a user of a workstation reserving a time slot for a copier, printer, or facsimile machine.

Further, Labbe never teaches or even suggests receiving commands from hosts. By contrast, Labbe expressly teaches a display on a workstation for a user to select time slots to copiers, printers, and facsimile machines. Labbe never even suggests command types or device commands.

The Examiner must provide *objective evidence*, rather than subjective belief and unknown authority, of the requisite motivation or suggestion to combine or modify the cited references. *In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems,*

*Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Such teaching or suggestion does not exist.

For at least these reasons, Applicants respectfully ask the Examiner to withdraw the rejections since a *prima facie* case of obvious has not been established.

Response to Examiner's Arguments on Combination

The Examiner argues that one skilled in the art "would have clearly recognized that it is quite advantageous for the method of Cheng to determine the reservation time period based on a command type of the device command in order to provide the ability to schedule tasks during low machine demand hours ..." (see OA at p. 4). Applicants respectfully disagree. The Examiner previously admitted that Cheng "does not clearly set forth the limitation of the reservation time period being determined based on a command type of the device command" (see OA at p. 3). The Examiner's own admission is completely contrary to the argument for obviousness.

Further, Cheng and Labbe are directed to completely different inventions. Cheng and Labbe would have to be greatly modified to arrive at the claimed invention. Cheng is directed to systems and methods that transfer audio-video information via a Universal Plug and Play (UPnP) network. By stark contrast, Labbe teaches a user interacting with a display on a workstation to select reservation times. The systems in Cheng would have to be greatly modified to be combined with the user workstations and teachings in Labbe.

Second, the differences between the claims and the applied references are great. By way of example, claim 1 recites reserving a reservation time period of a device for a <u>host</u> upon receiving a <u>command</u> from the host. The reservation time period is based on a <u>command type</u> of the <u>device command</u>. By contrast, Labbe does not disclose or even suggest hosts sending commands or reserving time based on command types of device commands. Again, Labbe teaches a user interface on a display of a workstation for a user to reserve time.

Hindsight Construction

As discussed above, Cheng and Labbe are directed to completely different inventions. No motivation exists to combine these references. Instead, the Examiner is performing an improper piecemeal construction that uses hindsight to arrive at the claim elements. In other words, the Examiner is picking and choosing unrelated and isolated sentences or teachings from Cheng and Labbe with hindsight of Applicants' invention to allegedly obviate the pending claims. One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

**Claim Rejections: 35 USC § 103(a)**

Claims 2 and 11 rejected under 35 USC § 103(a) as being unpatentable over Cheng in view of Labbe and UK patent application 2379769A (Tawil). These rejections are traversed.

As noted above, Cheng and Labbe do not establish a prima facie case of obviousness. Tawil fails to cure the deficiencies of Cheng and Labbe.

## CONCLUSION

In view of the above, Applicants believe that all pending claims are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. 832-236-5529. In addition, all correspondence should continue to be directed to the following address:

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